

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WILLIAM HENIG, on behalf of himself and  
all others similarly situated,

Plaintiff,

vs.

QUINN EMANUEL URQUHART &  
SULLIVAN, LLC and PROVIDUS NEW  
YORK, LLC,

Defendants.

13 CIV 1432

**DECLARATION OF SCOTT COMMERSON**

I, Scott Commerson, hereby declare as follows:

1. I am an attorney associated with Quinn Emanuel Urquhart & Sullivan, which is representing itself in the above captioned action. I submit this declaration in support of Quinn Emanuel's motion to dismiss plaintiff's complaint. Unless otherwise specified, I have personal knowledge of the facts set forth in this declaration and, if called upon as a witness, I could and would testify to such facts under oath.

2. On April 11, 2013, I sent plaintiff's counsel a detailed letter setting forth Quinn Emanuel's legal position on plaintiff's claims and advising that Quinn Emanuel intended to move to dismiss the complaint pursuant to Fed. R. Civ. Proc. 12(b)(6) because it failed to state a claim. In accordance with the Court's Individual Rules and Practices in Civil Cases, I requested that plaintiff's counsel advise of his availability to meet and confer regarding the anticipated motion to dismiss.

3. On April 17, 2013, I participated in a telephonic meet-and-confer with plaintiff's counsel Maimon Kirschenbaum and co-defendant Providus' counsel Zachary Hummel. Pursuant

to the Individual Rules, I asked Mr. Kirschenbaum if plaintiff wished to amend its complaint prior to motion practice. He indicated that plaintiff did not intend to do so.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed this 7th day of June, 2013, in Los Angeles, CA.

s/Scott Commerson

Scott Commerson